



METROPOLITAN  
TRANSPORTATION  
COMMISSION

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*Memorandum*

TO: Administration Committee

DATE: September 7, 2011

FR: General Counsel

W. I. 1111

RE: Resolution No. 1198, Revised - MTC's Conflict-of-Interest Code

The California Fair Political Practices Commission ("FPPC") requires regular review of multi-county agencies' conflict-of-interest ("COI") codes. The Metropolitan Transportation Commission's ("MTC") conflict-of-interest code, which also serves as the COI code for the Bay Area Toll Authority ("BATA") and the MTC Service Authority for Freeways and Expressways ("MTC SAFE"), has been updated and approved by the FPPC this year in order to more accurately reflect the most current designated positions in MTC's organizational structure since November 2002, and applies the new standardized disclosure categories for transit agencies.

In 2006, MTC's previous General Counsel, Francis Chin, entered into negotiations with the FPPC to update MTC's COI code. FPPC approval was finally granted on July 27, 2011 for MTC's revised COI code to go into effect on August 26, 2011. The enclosed "track changes" version reflects the conclusive changes that were negotiated with the FPPC from the version last approved by the FPPC in 2002. The changes are largely technical in nature, and will not materially affect how MTC conducts its business.

The COI code has been amended consistent with discussions with FPPC staff and with FPPC amendment procedures requiring a 45-day public comment period. FPPC staff has confirmed that inasmuch as the proposed COI code was made public by posting in the MTC library from February 11, 2009 through March 30, 2009, and since no comments or inquiries were received at the end of the 45-day public comment period, MTC does not need to re-notice the COI code.

The positions designated in Appendix A to MTC's approved conflict-of-interest code must file an annual Statement of Economic Interest (FPPC Form 700) within the agency in compliance with the disclosure categories as indicated in Appendix B. Copies of the revised code will be made available to any interested person who calls Rosy Levy, Secretary to the Commission, during business hours at (510) 817-5700.

Staff recommends that this Committee forward Resolution 1198, Revised, MTC's Conflict of Interest Code, to the Commission for approval.

  
Adrienne D. Weil

Date: October 27, 1982  
W.I.: 99110  
I.D.: File 1  
Referred by: A&O Committee  
Revised: 06/26/91-C  
07/27/94-C  
11/18/98-C  
06/28/00-C  
11/20/02-C  
09/28/11-C

## ABSTRACT

### Resolution No. 1198, Revised

#### Subject

This resolution adopts the amendments to the Metropolitan Transportation Commission's Conflict of Interest Code, directs the Executive Director to submit a copy of the amended code to the Fair Political Practices Commission, provides for future amendments, and revises Appendix A of the Commission Procedures Manual (Resolution No. 1058).

Resolution No. 1198 supersedes Resolution No. 859.

This resolution was revised on June 26, 1991 to include the disclosure of "business positions in business entities," to add a disclosure category for telecommunications services and equipment manufacturers to cover the activities of the MTC SAFE, to update the designated positions to reflect MTC's current organizational structure, and to clarify the definition of "consultant."

This resolution was revised on July 27, 1994 to amend the disclosure categories to cover MTC and MTC SAFE activities in the areas of towing services and intelligent vehicle highway systems (IVHS) and to update the designated positions to reflect MTC's current organizational structure.

This resolution was revised on November 18, 1998 to amend the conflict of interest code to reflect changes in FPPC regulations, amend the disclosure categories to cover the MTC Service Authority for Freeways and Expressways ("MTC SAFE") and Bay Area Toll Authority ("BATA") activities, and to update the designated positions to reflect MTC's current organizational structure. .

This resolution was revised on June 28, 2000 to add Associate Counsel as a designated position, delete the Legislation and Public Affairs and Finance sections to create one Funding and External Affairs section, and rename Treasury to Finance.

This resolution was revised on November 20, 2002, to delete the Funding and External Affairs section, to create a Programming and Allocations section and a Legislation and Public Affairs section, and to replace the Deputy Executive Director's position with two Deputy Directors' Positions.

This resolution was revised on September 28, 2011, to update the designated positions to reflect MTC's current organizational structure and disclosure categories.

Date: October 27, 1982  
W.I.: 99110  
I.D.: File 1  
Referred by: A&O Committee

RE: Adoption of the Amendments to the Metropolitan Transportation Commission's Conflict of Interest Code.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 1198

WHEREAS, the Metropolitan Transportation Commission (MTC), is the regional transportation planning agency pursuant to Government Code § 66500 *et seq.*; and

WHEREAS, MTC has adopted for purposes of the Political Reform Act (Government Code § 81000 *et seq.*) a Conflict of Interest Code (Resolution No. 859) which has been approved by the Fair Political Practices Commission; and

WHEREAS, MTC desires to amend its Conflict of Interest Code; and

WHEREAS, the proposed amendments have been submitted to the public for comment and subject to a public hearing; now, therefore, be it

RESOLVED, that the amended Conflict of Interest Code, incorporated herein as though set forth at length as Attachment A, is adopted; and, be it further

RESOLVED, that the Executive Director is directed to submit a copy of the Conflict of Interest Code to the California Fair Political Practices Commission for approval; and, be it further

RESOLVED, that MTC may from time to time further amend Attachment A as appropriate, in accordance with the applicable statutory and regulatory provisions; and, be it further

RESOLVED, that MTC Resolution No. 859 is superseded by Resolution No. 1198; and, be it further

RESOLVED, that Appendix A of the Commission Procedures Manual (MTC Resolution No. 1058) is revised by Resolution No. 1198.

METROPOLITAN TRANSPORTATION COMMISSION

/s/

William R. "Bill" Lucius, Chairman

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on October 27, 1982.

Date: October 27, 1982  
W.I.: 99110  
I.D.: File 1  
Referred by: A&O Committee  
Revised: 06/26/91-C 07/27/94-C  
11/18/98-C 06/28/00-C  
11/20/02-C 09/28/11-C

Attachment A  
Resolution No. 1198  
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## **CONFLICT-OF-INTEREST CODE FOR THE METROPOLITAN TRANSPORTATION COMMISSION**

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 *et seq.*, is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways ("MTC SAFE") pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority ("BATA") pursuant to Streets and Highways Code Section 30950 *et seq.* The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. Sec. 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Metropolitan Transportation Commission (MTC)**.

Individuals holding designated positions shall file their statements of economic interests with MTC, which will make the statements available for public inspection and reproduction (Government Code Sec. 81008). Upon receipt of statements for the MTC Commissioners and from the Executive Director, MTC shall make and retain copies and forward the originals to the **Fair Political Practices Commission**. All other statements will be retained by MTC.

Date: October 27, 1982  
 W.I.: 99110  
 I.D.: File 1  
 Referred by: A&O Committee  
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 Resolution No. 1198  
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## APPENDIX A

### DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
Deputy Executive Director, Bay Area Toll Authority ("BATA")	1, 3, 4
General Counsel	1, 3, 4
Deputy General Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services	2, 3
Director, Planning	2, 3
Director, Bridge Oversight and Operations	2
Director, Highway and Arterial Operations	2
Director, Traveler Coordination and Information	2
Director, Programming and Allocations	2, 3
Director, Legislation and Public Affairs	1, 3
Consultants*	

\*Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-of-interest code.

Date: October 27, 1982  
W.I.: 99110  
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## **OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners  
Chief Financial Officer  
Executive Director

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.



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## **APPENDIX B**

### **DISCLOSURE CATEGORIES**

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

- CATEGORY 1** - Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including, but not limited to, public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** - Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by the designated position's department or division.
- CATEGORY 3** - All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.
- CATEGORY 4** - Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that filed a claim against MTC during the previous two years, or have a claim pending against MTC.

This is the last page of the conflict-of-interest code for the **Metropolitan Transportation Commission**.



## CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict-of-interest code for the **Metropolitan Transportation Commission** was approved on July 27, 2011.

This code will become effective on August 26, 2011.

A handwritten signature in black ink, appearing to read "R. Porter", written over a horizontal line.

Roman G. Porter

Executive Director

Fair Political Practices Commission

Date: October 27, 1982  
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09/28/11-C

## ABSTRACT

Resolution No. 1198, Revised

### Subject

This resolution adopts the amendments to the Metropolitan Transportation Commission's Conflict of Interest Code, directs the Executive Director to submit a copy of the amended code to the Fair Political Practices Commission, provides for future amendments, and revises Appendix A of the Commission Procedures Manual (Resolution No. 1058).

Resolution No. 1198 supersedes Resolution No. 859.

This resolution was revised on June 26, 1991 to include the disclosure of "business positions in business entities," to add a disclosure category for telecommunications services and equipment manufacturers to cover the activities of the MTC SAFE, to update the designated positions to reflect MTC's current organizational structure, and to clarify the definition of "consultant."

This resolution was revised on July 27, 1994 to amend the disclosure categories to cover MTC and MTC SAFE activities in the areas of towing services and intelligent vehicle highway systems (IVHS) and to update the designated positions to reflect MTC's current organizational structure.

This resolution was revised on November 18, 1998 to amend the conflict of interest code to reflect changes in FPPC regulations, amend the disclosure categories to cover the MTC Service Authority for Freeways and Expressways ("MTC SAFE") and Bay Area Toll Authority ("BATA") activities, and to update the designated positions to reflect MTC's current organizational structure. .

This resolution was revised on June 28, 2000 to add Associate Counsel as a designated position, delete the Legislation and Public Affairs and Finance sections to create one Funding and External Affairs section, and rename Treasury to Finance.

This resolution was revised on November 20, 2002, to delete the Funding and External Affairs section, to create a Programming and Allocations section and a Legislation and Public Affairs section, and to replace the Deputy Executive Director's position with two Deputy Directors' Positions.

The resolution was revised on September 28, 2011, to update the designated positions to reflect MTC's current organizational structure and disclosure categories.

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W.I.: 99110  
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RE: Adoption of the Amendments to the Metropolitan Transportation Commission's Conflict of Interest Code.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 1198

WHEREAS, the Metropolitan Transportation Commission (MTC), is the regional transportation planning agency pursuant to Government Code § 66500 *et seq.*; and

WHEREAS, MTC has adopted for purposes of the Political Reform Act (Government Code § 81000 *et seq.*) a Conflict of Interest Code (Resolution No. 859) which has been approved by the Fair Political Practices Commission; and

WHEREAS, MTC desires to amend its Conflict of Interest Code; and

WHEREAS, the proposed amendments have been submitted to the public for comment and subject to a public hearing; now, therefore, be it

RESOLVED, that the amended Conflict of Interest Code, incorporated herein as though set forth at length as Attachment A, is adopted; and, be it further

RESOLVED, that the Executive Director is directed to submit a copy of the Conflict of Interest Code to the California Fair Political Practices Commission for approval; and, be it further

RESOLVED, that MTC may from time to time further amend Attachment A as appropriate, in accordance with the applicable statutory and regulatory provisions; and, be it further

RESOLVED, that MTC Resolution No. 859 is superseded by Resolution No. 1198; and, be it further

RESOLVED, that Appendix A of the Commission Procedures Manual (MTC Resolution No. 1058) is revised by Resolution No. 1198.

METROPOLITAN TRANSPORTATION COMMISSION

/s/

\_\_\_\_\_  
William R. "Bill" Lucius, Chairman

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on October 27, 1982.

Date: October 27, 1982  
W.I.: 99110  
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~~METROPOLITAN TRANSPORTATION COMMISSION~~

CONFLICT OF INTEREST CODE FOR THE

METROPOLITAN TRANSPORTATION COMMISSION

The Political Reform Act, (Government Code § 81000 *et seq.*) requires state and local government agencies to adopt and promulgate ~~a conflict-of-interest code~~. The Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code § Section 66500 et seq., is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code § Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways ("MTC SAFE") pursuant to Streets and Highways Code §§ Sections 2550-2556, and the Bay Area Toll Authority ("BATA") pursuant to Streets and Highways Code §§ Section 30950 et seq. The Fair Political Practices Commission has adopted a regulation, (2 Cal. Code Regs. § Sec. 18730) ~~which that~~ contains the terms of a standard ~~Conflict-conflict-of-interest code~~, which ~~the Fair Political Practices Commission may amend from time to time to conform to amendments in the Political Reform Act, can be incorporated by reference in an agency's code. A~~ after public notice and hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. § Sec. 18730 and any subsequent amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached ~~Appendix A designating positions required to disclose and Appendix B Appendices, designating positions and,~~ establishing disclosure categories, ~~are hereby incorporated by reference and shall constitute the Conflict-conflict-of-interest code of the Metropolitan Transportation Commission (MTC).~~

~~The Executive Director shall identify the MTC staff person to whom statements shall be filed with and who will make the statements available for public inspection and reproduction (Government Code § 81008). Individuals holding designated positions shall file their statements of economic interests with MTC, which will make the statements available for public inspection~~

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and reproduction (Government Code Sec. 81008). Upon receipt of statements from MTC Commissioners and from the Executive Director, ~~the MTC staff person~~ shall make and retain ~~a copy~~ copies for MTC's files and forward the original ~~of these statements~~ to the **Fair Political Practices Commission**. ~~Upon receipt of statements from all other designated MTC employees, the MTC staff person shall retain the originals in MTC's files.~~ All other statements will be retained by MTC.



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## APPENDIX A

### DESIGNATED POSITIONS

The following positions entail the making or participating in the making of decisions may foreseeably have a material effect on any financial interest. Persons holding these designated positions shall disclose those interests in categories as set forth in Appendix B to which they are assigned.

<u>Position</u>	<u>Disclosure Category</u>
MTC Commissioners	1
Executive Director	1
Deputy Director, Policy	1
Deputy Director, Operations	1
General Counsel	1
Associate General Counsel	1
Associate Counsel	1
Special Counsel	1

#### MANAGERS:

Administrative Services	3
Planning	2
Bridge and Highway Operations	3
Transit Coordination and Access	2
Programming and Allocations	2
Legislation and Public Affairs	2
Advanced Systems Applications	2
Finance	2
Consultants*	1

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
Deputy Executive Director, Bay Area Toll Authority ("BATA")	1, 3, 4

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<u>General Counsel</u>	<u>1, 3, 4</u>
<u>Deputy General Counsel</u>	<u>1, 3, 4</u>
<u>Associate Counsel</u>	<u>1, 3, 4</u>
<u>Special Counsel</u>	<u>1, 3, 4</u>
<u>Director, Administrative and Technology Services</u>	<u>2, 3</u>
<u>Director, Planning</u>	<u>2, 3</u>
<u>Director, Bridge Oversight and Operations</u>	<u>2</u>
<u>Director, Highway and Arterial Operations</u>	<u>2</u>
<u>Director, Traveler Coordination and Information</u>	<u>2</u>
<u>Director, Programming and Allocations</u>	<u>2, 3</u>
<u>Director, Legislation and Public Affairs</u>	<u>1, 3</u>
<u>Consultants*</u>	

\*Consultants shall be included in the list of designated employees-positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with disclosure requirements described in these categories this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict-conflict-of-I-interest-C-code (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-or-interest-code.

Date: October 27, 1982  
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## OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners  
Chief Financial Officer  
Executive Director

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

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## **APPENDIX B**

### **DISCLOSURE CATEGORIES**

#### **Category 1**

~~A. All investments, business positions in business entities, and sources of income that fall within the following categories:~~

- ~~1. Public Utilities~~
- ~~2. Energy research, energy development~~
- ~~3. Construction and building materials, construction and building contractors~~
- ~~4. Transportation services (including towing services), transportation consultants, transportation equipment~~
- ~~5. Motor vehicle manufacturer, distributors, and dealers~~
- ~~6. Office equipment, supplies~~
- ~~7. Petroleum products~~
- ~~8. Real property sales, development, brokerage, appraisals~~
- ~~9. Engineering services~~
- ~~10. Printing or reproduction services, publications and distributions~~
- ~~11. Legal services~~
- ~~12. Banks, Savings and Loans~~
- ~~13. Audit and/or Accounting~~
- ~~14. Insurance~~
- ~~15. Computer companies, software and hardware~~
- ~~16. Communications services and equipment manufacturers, including telecommunications, data broadcasting and components~~

~~B. All interests in real property located in whole or in part within or not more than two miles outside the boundaries of MTC's jurisdiction.~~

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#### Category 2

A. ~~Investments and business positions in business entities and sources of income of the type which, within the past two years, have contracted with the designated employee's section to provide services, supplies, materials, machinery or equipment.~~

B. ~~Interests in real property located in whole or in part within or not more than two miles outside the boundaries of MTC's jurisdiction.~~

#### Category 3

A. ~~Investments<sup>1</sup> and business positions in business entities and sources of income<sup>2</sup> of the type which, within the past two years, have contracted with the designated employee's section to provide services, supplies, materials, machinery, or equipment.~~

B. ~~The Executive Director, or his designee shall provide, at the time disclosure forms are given designated employees for completion, a list of business entities which the Commission has contracted with within the past two years for services, supplies, materials, machinery, or equipment.~~

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

**CATEGORY 1** = Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including, but not limited to, public utilities, consultants, transportation companies, and manufacturers.

<sup>1</sup>The term "investment" is defined at Government Code § 82034.

<sup>2</sup> The term "income" is defined at Government Code § 82030.

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- CATEGORY 2** = Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by the designated position's department or division.
- CATEGORY 3** = All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.
- CATEGORY 4** = Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from, entities that filed a claim against MTC during the previous two years, or have a claim pending against MTC.